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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

THE PEOPLE,

Plaintiff and Respondent,

v.

RICHARD DEWAYNE BASSETT,

Defendant and Appellant.

C062834

(Super.Ct.No.
CM030356)

Defendant Richard Dewayne Bassett pulled a college student into the bushes, raped her at gunpoint, and left with her cell phone. He pled no contest to kidnapping (Pen. Code, § 207, subd. (a); further section references are to the Penal Code), rape (§ 261, subd. (a)(2)), and second degree robbery (§ 211), and he admitted that he used a gun while committing the crimes (§ 12022.53, subd. (b)) and that they were committed while he was on probation. He was sentenced to a term of 40 years and 4 months in state prison.

On appeal, defendant raises two claims of sentencing error, both of which the People concede.

On the probation department's recommendation, the court ordered defendant to pay "victim" restitution to the Butte County Jail in the amount of \$887, for vandalism to the jail cell defendant allegedly committed while incarcerated on the charges for which he was convicted in this case. Defendant contends, and the People concede, that the trial court lacked statutory authority to order him to pay restitution to the jail. We agree.

Courts are authorized to order a defendant to pay restitution directly to a victim who suffers economic loss as a result of the defendant's conduct. (§ 1202.4, subds. (a)(1) & (f).) "Victim" includes "any other legal or commercial entity when that entity is a *direct victim* of a crime." (§ 1202.4, subd. (k)(2), italics added.) In the context of entities, direct victims have been defined as entities against which the crimes have been committed, i.e., entities that are the "immediate object[s]" of the offenses. (*People v. Martinez* (2005) 36 Cal.4th 384, 393.) A law enforcement agency is not a direct victim when it incurs economic losses in the course of investigating or incarcerating a defendant pending trial. (See *People v. Slattery* (2008) 167 Cal.App.4th 1091, 1096-1097 [a hospital is not a direct victim when it incurs losses for the treatment of a victim who was injured by a defendant's criminal conduct].)

Here, the Butte County Jail was not the "immediate object" of defendant's kidnapping, rape, or burglary offenses. (See *People v.*

Martinez, supra, 36 Cal.4th at p. 393.) Thus, victim restitution to the jail should not have been ordered.

Defendant also challenges the "no visitation" with the victim order. Section 1202.05 provides, in pertinent part: "(a) Whenever a person is sentenced to the state prison on or after January 1, 1993, for violating Section 261 . . . and the victim of one or more of those offenses is a child under the age of 18 years, the court shall prohibit all visitation between the defendant and the child victim."

Defendant argues, and the People concede, that, by its terms, a section 1202.05 no-visitation order may be imposed only if the victim is under 18 years old. We agree.

Because the victim here was over 18 year old when the crimes were committed, defendant was not subject to the mandatory provisions of section 1202.05. Thus, the no-visitation order was error.

DISPOSITION

The judgment is modified by striking the orders that defendant pay restitution to the Butte County Jail and have no visitation with the victim. As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect the

modifications and to send a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.

SCOTLAND, P. J.

We concur:

SIMS, J.

ROBIE, J.